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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Summary record of the 9th meeting
Held at Headquarters, New York, on Wednesday, 27 June 2007, at 10 a.m.

Chairperson: Ms. Hughes-Ferrari ..... (Saint Vincent and the Grenadines)

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The meeting was called to order at 10.30 a.m.

Adoption of the agenda

1. *The agenda was adopted.*

Question of Tokelau (A/AC.109/2007/11 and A/AC.109/2007/L.15)

Hearing of representatives of the Non-Self-Governing Territory

2. *At the invitation of the Chairperson, Mr. Nasau (Ulu-o-Tokelau) and Mr. Payton (Administrator of Tokelau) took places at the Committee table.*

3. **Mr. Nasau** (Ulu-o-Tokelau), titular head of the Territory, said that Tokelau's Referendum Commission had decided to hold the upcoming referendum from 20 to 24 October 2007 rather than in November 2007, as planned, in order to avoid the risks associated with the cyclone season. The results of the vote would be declared within 24 hours.

4. The General Fono had decided that the proposal for the 2007 referendum would be the same as that of the previous year — "that Tokelau become self-governing in free association with New Zealand on the base of the Constitution and the Treaty" — and that Tokelau would be declared to have achieved self-determination only if more than a two-thirds majority of the valid votes supported the proposal. As in 2006, the package that would be put to the vote included the draft constitution of Tokelau, endorsed in principle by the General Fono in May 2005, and the draft treaty of free association between New Zealand and Tokelau, the principles of which had been approved by the General Fono and by New Zealand's Cabinet in 2005. The Referendum Commission had decided to invite two representatives of the Special Committee to attend as observers.

5. The Council of Ongoing Government was of the view that in order for the referendum to be truly successful, it was important to have the support of the Tokelau communities both at home and abroad. From January to March 2007, it had therefore consulted with Tokelauans in the Territory and in Hawaii, American Samoa, Samoa, Australia and New Zealand. In the villages of Tokelau, Referendum Committees had been established to provide information to the people; they were supported by a Consultation Team that held consultations for two or three weeks in each village.

6. Continuing close cooperation with New Zealand was essential. That relationship of trust was a result of the good faith and patience shown by the past leaders of both countries and of their commitment to the development of Tokelau's capacity for self-government. The 2003 Joint Statement of the Principles of Partnership between Tokelau and New Zealand was visionary in its goal of creating a framework within which both parties could derive maximum benefit from their relations and provided a firm foundation for constructive dialogue. The partners had also signed the Arrangement between New Zealand and Tokelau on Economic Support to Tokelau 2004/05-2007/08 and were finalizing an economic package for the period 2007-2010.

7. The current year had seen the final resolution of an accumulated funds deficit that had had an adverse impact on development initiatives for the past three years. Tokelau had sought to address that problem in a fiscally prudent manner, and he was certain that that stance had contributed to the increased levels of assistance proposed by New Zealand in its economic support arrangements for the next three-year period, during which the Tokelau authorities planned to focus on village development, health, education and transport. Shipping was the lifeline to the Territory's small atolls, and the Government of New Zealand was working with the local authorities to ensure that a new purpose-built ship would soon be available.

8. The Tokelau International Trust Fund, which looked to the long-term future of the population, contained approximately US$ 22 million thanks to substantial support from New Zealand, Australia and the United Kingdom; there would be further opportunities for countries to contribute to the Fund in the future.

9. In light of Tokelau's fragile environment, energy independence through the development of indigenous energy resources was a long-term goal. The Government of Tokelau, with support from the United Nations Development Programme (UNDP), would assess whether the power system on each of the three atolls could be based on a solar and coconut oil hybrid. He called on the international community to take practical, immediate steps to reduce the impact of rising sea levels and global warming; for example, sea walls were needed in the low-lying villages. In November 2006, Tokelau had hosted 10 regional organizations and United Nations agencies in an effort

to develop a draft joint United Nations and Council of Regional Organisations in the Pacific (CROP) agencies strategy for Tokelau for the period 2007-2010.

10. Tokelau had limited resources and capacities in some areas and looked forward to support from the Government of New Zealand in order to help settle its exclusive economic zone (EEZ) boundaries and to formalize arrangements with the Government of Samoa, its "elder brother" and gateway to the world.

11. Regardless of the outcome of the referendum, the Government of Tokelau remained committed to self-determination and was confident that it would receive continuing support from New Zealand and other countries.

12. **Mr. Payton** (Administrator of Tokelau) confirmed the New Zealand Government's full support for the October 2007 referendum and for Tokelau's invitation for the Committee to attend. His Government also wished to ensure that the Electoral Assistance Division of the Secretariat would continue to provide support for that process and had offered to cover the costs of participation for two representatives of the Division.

13. It was important to ensure that voters had a clear understanding of what was at stake for them and for Tokelau. The 20 months between the two referendums had been thoroughly used by the Territory's leaders, whose actions had been a credit to the democratic process. The debate following the narrow failure of the proposal in the 2006 referendum had been thorough and frank and it had been determined that more needed to be done to reassure Tokelauans living outside the atolls that self-government would not disadvantage their interests. Their concerns had been addressed through consultation, there was a clear sense of unity within the Tokelauan community, and both the voters and the wider family of Tokelauans would be as well prepared as possible to make an informed choice.

14. The referendum would determine the status of the three atolls of Atafu, Nukunonu and Fafaofo, which constituted Tokelau under the 1980 Treaty between the United States of America and New Zealand on the delimitation of the maritime boundary between Tokelau and the United States of America. As administering authority, New Zealand reaffirmed its commitment to the territorial integrity of Tokelau on the basis of that Treaty and had endeavoured to ensure that the Territory had the necessary support systems and infrastructure to prepare it for the future. A vastly improved shipping service geared to both freight and passenger transport, a thorough upgrade of schools and hospitals, and a three-year economic support package that would enable the Taupulega (village councils) to plan with certainty were proof that New Zealand would remain steadfast in its commitment to Tokelau in the coming years.

15. Whatever the outcome of the referendum, the Tokelauans would continue to face serious challenges, including the impact of climate change, sea level rise and extreme weather events, and they must do so in the knowledge that their behaviour had in no way caused those problems. And if the referendum was successful, Tokelau's leaders would need to determine the most appropriate way to interact with the wider international community and how best to draw together the inhabitants of the atolls and the many Tokelauans who lived elsewhere in the region. Central to that endeavour would be a determination to keep their culture and language strong and vibrant.

16. The fact that Tokelau's future lay in the hands of its people was a testament to his Government's commitment to decolonization. Tokelau and New Zealand were linked by bonds of family and commitment that would endure, whatever the outcome of the referendum.

17. **The Chairperson** said that the February 2006 referendum had been an important step in Tokelau's quest for self-determination and provided an example of an administering Power's good faith and commitment to the development of a territory's capacity for self-government through strengthened economic, political and social well-being.

18. The Committee had followed closely the developments leading up to the second referendum and thanked the Ulu-o-Tokelau for the invitation to attend. It stood ready to support the Territory and hoped that Tokelau would avail itself of all the assistance that the United Nations system had to offer.

19. *Mr. Nasau (Ulu-o-Tokelau) and Mr. Payton (Administrator of Tokelau) withdrew.*

Draft resolution A/AC.109/2007/L.15

20. **Mr. Aisi** (Papua New Guinea), speaking also on behalf of Fiji, introduced the draft resolution. He had attended the February 2006 referendum on behalf of

the Committee and, following his report on the outcome, the Committee had decided that it would support another referendum when Tokelau and New Zealand were ready. He commended the two parties on their efforts and stressed that New Zealand had provided an example for other administering Powers to follow. He hoped that the invitation for the United Nations to monitor the October 2007 referendum would be accepted.

21. *Draft resolution A/AC.109/2007/L.15 was adopted.*

22. **The Chairperson** announced that the Special Committee had concluded it consideration of the item.

The meeting was suspended at 11 a.m. and resumed at 11.10 a.m.

Report of the Special Committee
(A/AC.109/2007/L.14)

23. **The Chairperson**, drawing attention to the draft report of the Special Committee contained in document A/AC.109/2007/L.14, said that it contained decisions and recommendations of the Special Committee on the question of holding a series of meetings away from Headquarters, representation at seminars, meetings and conferences of intergovernmental and other organizations, pattern of conferences, control and limitation of documentation, the question of the list of Territories to which the Declaration was applicable, the regional seminar, and the participation of representatives of Non-Self-Governing Territories in the work of the Special Committee. The report followed essentially the same pattern as previous years' reports, with minor technical changes. She took it that the Committee was ready to adopt the draft report.

24. *It was so decided.*

Draft report of the Caribbean regional seminar
(A/AC.109/2007/CRP.2)

25. **The Chairperson** drew attention to the draft report of the Caribbean regional seminar contained in document A/AC.109/2007/CRP.2, and expressed her sincere thanks to the Government and people of Grenada for providing support and facilities for the seminar.

26. **Mr. Daniel** (Saint Vincent and the Grenadines) said that the people of his country strongly supported the fundamental human right of self-determination enshrined in the Charter of the United Nations. While it was inappropriate, in his view, for the Committee or attendees at the seminar to undermine that principle, his delegation would nevertheless refrain from impeding consensus on the draft report.

27. **The Chairperson** said she took it that the Committee wished to adopt the draft report of the Caribbean regional seminar and annex it to the report of the Special Committee to the sixty-second session of the General Assembly, it being understood that the reservations expressed by members would be reflected in the record of the meeting.

28. *It was so decided.*

Organization of work

29. **The Chairperson** said she took it that in order to facilitate the timely submission of the report of the Special Committee to the sixty-second session of the General Assembly, and in accordance with established practice, the Committee should authorize the Rapporteur to submit the report directly to the Assembly.

30. *It was so decided.*

Other matters

31. **The Chairperson** recalled that at its meeting of 30 June 2006, the Special Committee had postponed taking action on the draft decision, contained in document A/61/23, to appoint an independent expert. The duration of the proposed appointment was to have been for a period of three years beginning in February 2007. The decision had been postponed owing to lack of sufficient information on the proposed status and activities of the expert. The Secretariat had briefed the Committee in informal session on 30 June 2006 of the possible programme budget implications, were the Committee to take such a decision.

32. **Mr. Cherniavsky** (Secretary of the Committee) recalled that on 30 June 2006, he had apprised the Committee that although special rapporteurs or independent experts appointed under procedures established by the Commission on Human Rights were not remunerated, their travel and related operating expenses were funded by the regular budget, and that such appointments always required a statement of programme budget implications. While the Special Committee could recommend the adoption of similar procedures for its purposes, the Secretariat would be

unable to determine the possible budgetary implications of such an appointment without specific information regarding the selection process to be followed, the nature of the functions to be discharged, the approximate number of documents to be written by the independent expert for subsequent editing, translation and distribution, and the extent of travel required to perform those functions. Moreover, should the Special Committee proceed with the appointment, the appointee would have the status of "expert on mission" under articles VI and VII of the 1946 Convention on the Privileges and Immunities of the United Nations, and would be subject to the regulations governing the status, basic rights and duties of officials other than Secretariat officials, and experts on mission, provided in General Assembly resolution 56/280 of 27 March 2002. Financing of the activities of the independent expert could not therefore be obtained directly by that person from sources other than the United Nations since, as an expert on mission, he or she would be precluded from seeking or accepting any gift or remuneration from any Government, non-governmental source, or any other source external to the United Nations, for activities carried out in the course of his or her official functions while in the service of the United Nations.

33. He further recalled that following the postponement of Committee action on the decision, the Office of Legal Affairs had advised the Secretariat that the Special Committee, as a subsidiary organ of the General Assembly, was subject to the rules of procedure of that body, under which all draft decisions required estimates of associated expenditures prepared by the Secretary-General and statements on their budgetary implications prepared by the Advisory Committee on Administrative and Budgetary Questions (ACABQ). The Office of Legal Affairs had emphasized that it was for the Secretary-General, and not for the Special Committee, to determine the financial implications of a particular decision for the Organization. By taking a decision stating that the appointment of the independent expert would carry no programme budgetary implications, without the Secretary-General's estimation to that effect, the Special Committee would exceed its competence and authority.

34. The Office of Legal Affairs therefore recommended that the information necessary for the Secretary-General to make such determination must be provided prior to consideration of the draft decision. Should the Secretary-General find that the decision had financial implications, the normal budgetary process must be followed; a statement of programme budget implications would be submitted to the Special Committee prior to its consideration of the draft decision and a similar statement would be submitted to the Special Political and Decolonization Committee (Fourth Committee). The plenary of the General Assembly would then make a final determination on the matter, taking into consideration the recommendation of the Fourth Committee and the advice of the Administrative and Budgetary Committee (Fifth Committee) on the effect of the decision on the budget after having considered the estimate of expenditures and the related report of the ACABQ.

35. With reference to the fact that some delegations had expressed reservations on the draft decision, the Office of Legal Affairs noted that the Chairperson of the Special Committee remained under the authority of that Committee, and should avoid making proposals that did not enjoy its broad support. Finally, as the independent expert would have the status of "expert on mission", he or she would be accountable to the United Nations for his or her actions, and would be required to discharge his or her duties and regulate his or her conduct with the interests only of the Organization in view.

36. **Mr. Paletskiy** (Russian Federation) said that in the light of the Secretary's comments, it was clear that the appointment of an independent expert would entail substantial financial consequences. Without further explanation of those consequences, it would be difficult for his delegation to support the adoption of such a decision.

37. **Mr. Aisi** (Papua New Guinea) said that the issue of programme budget implications was of concern to his delegation, and that his delegation would consequently be reluctant to support the decision unless that issue was resolved.

38. **The Chairperson** proposed that in view of the statement by the Secretariat and views expressed by delegations, the Committee should take no action on the draft decision, and that the matter was therefore closed.

39. *It was so decided.*

Closure of the session

40. **The Chairperson**, in a closing statement, expressed her appreciation for the support extended to her and the interest shown in the work of the Special Committee. The results of the current session demonstrated that some progress had indeed been made in accomplishing the central task of the Special Committee: establishing conditions that would enable Non-Self-Governing Territories to demonstrate their will on the issue of their respective status through valid acts of self-determination. For example, more action-oriented and better-structured language could now be found in the consolidated draft resolution contained in document A/AC.109/2007/L.9 dealing with 11 of the 16 Non-Self-Governing Territories. In accordance with her mandate under the Visiting Missions resolution, she had met with all administering Powers and raised the issue of visiting missions, and intended to undertake follow-up consultations in due course. She called on the Committee to focus its time, energy and creativity on those Territories where it could help achieve progress on a case-by-case basis, and to find new ways of going about its work, through improved cooperation with the administering Powers and in full recognition of the peoples and Governments of the Non-Self-Governing Territories.

The meeting rose at 11.30 a.m.